

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Eduardo Castillo

v

Morgan & Associates, P.C.

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Civil Action No.

5:20-cv-552

Plaintiff's Original Complaint

Introduction

1. This lawsuit is filed under the Fair Debt Collection Practices Act for Defendant's violation of the same. The FDCPA was enacted to curb harassment, abuse, and misleading practices by debt collectors.
2. The FDCPA regulates communications by debt collectors. Part of this regulation prohibits debt collectors from contacting a consumer it knows is represented by counsel. 15 U.S.C. § 1692c(a)(2).
3. Plaintiff brings this action under the FDCPA and seeks actual damages, statutory damages, reasonable attorney's fees, and costs.

Jurisdiction & Venue

4. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

5. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events or omissions giving rise to Plaintiff's claims occurred here.

Parties

6. Plaintiff, Eduardo Castillo, is a natural person who resides in and has resided in San Antonio, Bexar County, Texas at all times relevant to this action.
7. Defendant, Morgan & Associates, P.C. is an Oklahoma professional corporation whose principal business address is 2601 N.W. Expressway, Suite 205 East, Oklahoma City, Oklahoma 73112. It may be served with process via its registered agent Porter H. Morgan at the same address.
8. Morgan is a third-party debt collector as defined by the FDCPA. As such Texas law requires it to maintain a third-party debt collector bond on file with the Texas Secretary of State. Morgan's third-party debt collector bond is numbered 775224253TX.

Facts

9. Morgan regularly collects, and attempts to collect, defaulted debts which were incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf of others using the U.S. Mail, telephone, and internet.
10. The principal purpose of Morgan is the collection of such debts.

11. The Debt is an allegedly defaulted debt that Castillo used for personal, family, and household purposes (the “Debt”).
12. In an effort to collect the Debt Morgan sued Castillo in Bexar County.
13. Castillo hired undersigned counsel to represent him in the county court suit.
14. Undersigned counsel filed an answer date stamped October 22, 2019 and served it upon Morgan via electronic filing manager and first-class mail.
15. A true and correct copy of the answer is attached as Exhibit A.
16. In a letter dated February 7, 2020 Morgan contacted Castillo in an effort to settle the county court case.

Cause of Action – Fair Debt Collection Practices Act

17. Morgan is a debt collector as defined by 15 U.S.C. § 1692a(6).
18. The Debt is a debt as defined by 15 U.S.C. § 1692a(5).
19. Castillo is a consumer as defined by 15 U.S.C. § 1692a(3).
20. The February letter is a communication as defined by 15 U.S.C. § 1692a(2).
21. The letter violates the FDCPA in that it was sent to Castillo after Morgan had been served with Castillo’s answer to the underlying suit which included his attorney’s contact information. Communicating with a consumer when a debt collector knows that consumer’s attorney’s information violates 15 U.S.C. § 1692c(a)(2).

22. The letter appears to be signed by an attorney. However, if an attorney had reviewed the file, they would have found that Castillo had filed an answer and was represented by counsel. No attorney was meaningfully involved in the preparation, review, or sending of the February letter in violation of 15 U.S.C. § 1692e(3).

Jury Demand

23. Plaintiff demands this case be tried before a jury.

Prayer for Relief

Plaintiff prays, that this Court enter judgment against Defendant and in favor of Plaintiff for:

- a. Actual damages per 15 U.S.C. § 1692 k(a)(1);
- b. Statutory damages per 15 U.S.C. § 1692k(a)(2); and
- c. Attorney's fees, costs, and litigation expenses per 15 U.S.C. § 1692 k(a)(3).

Dated May 5, 2020

Respectfully Submitted,

/s/William M. Clanton
William M. Clanton
Texas Bar No. 24049436

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